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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/635,384	08/06/2003	Paul A. Noel	42430-10706	1286

47377 7590 01/19/2007  
JENNER & BLOCK LLP  
ONE IBM PLAZA  
CHICAGO, IL 60611

EXAMINER
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NGUYEN, TU X

ART UNIT	PAPER NUMBER
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2618

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
3 MONTHS	01/19/2007	PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

**Office Action Summary**

Application No.

10/635,384

Applicant(s)

NOEL ET AL.

Examiner

Tu X. Nguyen

Art Unit

2618

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 31 October 2006.
- 2a) ☐ This action is **FINAL**.      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1,3-13 and 15-20 is/are pending in the application.
- 4a) Of the above claim(s) 2 and 14 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1,3-13 and 15-20 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

## DETAILED ACTION

### *Response to Arguments*

Applicant's arguments filed 10/31/06 have been fully considered but they are not persuasive.

Regarding claim 1 and 13, Applicants argue "The Examiner cites to Maggenti paragraph [0154] in support of the revoking field in the PTX message of Maggenti. The Examiner considers that "arbitration granting and revoke" reads on the recited preemption element. However, the cited paragraphs do not disclose, teach or suggest that a current speaker is preempted by a higher priority user seeking the floor. As discussed in the telephonic interview, the revoking field in the Maggenti PTX message appears to reference revoking a user when the time limit for control of the floor is reached. This is not the preemption recited in the present claims. In fact, Maggenti teaches against preemption. Yafuso does not provide the teachings missing from Maggenti. And, the combination of Maggenti and Yafuso fail to provide the missing teachings". The Examiner respectfully disagrees. Maggenti disclose "While the lower priority CD 442 is transmitting media 443, a second CD 444 attempts to interrupt by sending the SIP user agent server 252 a PTT message request 448 for the same net. The SIP user agent server 252 determines that the second CD 444 has higher priority than the talking CD 442 and immediately revokes control of the net's floor from the talking CD 442 by sending it an asynchronous PTX denial message 454. The SIP user agent server 252 then grants the PTT request 448 to the higher priority

Art Unit: 2618

CD 444 with a normal PTX grant message response 452 and announces that the higher priority CD 444 has control of the net's floor" (see par.0189).

### **Claim Rejections - 35 USC § 102**

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1, 3-13 and 15-18, are rejected under 35 U.S.C. 102(b) as being clearly anticipated by Maggenti et al. (US 2002/0086665 A1).

Consider claims 1 and 13, Maggenti et al. disclose in a telecommunications system using half-duplex communications and a push-to-talk feature, a method for queuing participants (arbitration) in a push-to-talk call (Paragraph (0035)), the method comprising the steps of: defining a group for the push-to-talk call in response to a user input and wherein the group has at least one participant (Abstract, paragraphs (0046) and (0052), determining the availability of the at least one participant (Paragraphs (0010), (0113) and (0114), assigning a priority level designation to the at least one participant (Paragraph (00351), allocating resources for the push-to-talk call after the steps of determining the availability of the at least one participant and assigning a priority level designation to the at least one participant (Paragraphs (0035), (0045), (0061) and (0181)), and granting access to transmit speech in the push-to-talk call based on the priority level (Paragraph (0035);

receiving a request to speak while a current participant currently speaking; comparing a priority level of a participant initiating the request to speak with that of the current participant currently speaking; and preemption the current participant based on the priority level of the participant initiating the request and the priority level of the current participant currently speaking based on the priority level of the current participant currently speaking, when the participant initiating the request has a higher priority level (see par.0154).

Consider claims 3 and 16, Maggenti et al. disclose the second server is programmed to transmit messages indicating the current speaker to the device capable of sending and receiving messages over the telecommunications system (Paragraphs (0156)-(0157), reads on claims 3 and 16).

Consider claims 4, 15 and 17, Maggenti et al. disclose the second server is programmed to transmit messages indicating a change in speakers to the device capable of sending and receiving messages over the telecommunications system and indicating a priority level designation (Paragraph (0154), reads on claims 4, 15 and 17).

Consider claims 5-6, Maggenti et al. disclose the step of defining a group for the push-to-talk call in response to a user input further includes the step of defining the group for the push-to-talk call using a device capable of sending and receiving messages (as in claim 5) and an Internet interface (as in claim 6) to select at least one participant (Paragraphs (0041)-(0042), reads on claims 5 and 6).

Consider claims 7 and 8, Maggenti et al. disclose the step of determining the availability of at least one participant further comprises the step of sending a request for access to a device capable of sending and receiving messages (as in claim 7) and receiving a response from the

Art Unit: 2618

device capable of sending and receiving messages (as in claim 8), responsive to the step of sending a request for access to the device capable of sending and receiving messages.

(Paragraphs (0159)-(0161), reads on claims 7 and 8).

Consider claims 9 and 18, Maggenti et al. disclose the second server is programmed to assign a priority designation to the at least one participant using one of: an Internet interface and the device capable of sending and receiving messages (Paragraphs (0035) and (0045), where Maggenti et al. disclose a priority code for determining how transmission privileges (priority) are granted or denied and such determinations are based on arbitration taking into consideration the priority level of a requesting net member (at least one participant) as compared (hence using) to the net member that has currently (device capable of sending and receiving messages) been assigned transmission privileges, reads on claims 9 and 18).

Consider claim 10, Maggenti et al. reserving a means for duplicating voice packets to be used in the call (Paragraph (0043)).

Consider claim 12, Maggenti et al. disclose requesting one of: a display of the queue order, and a display of all of the participants on the call (Paragraphs (00101, (0101) and (0117)).

Consider claim 11, Maggenti et al. disclose the step of receiving the request to speak while a current participant is speaking further comprises the step of depressing a button on a device capable of sending and receiving messages (see par.0122).

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

Art Unit: 2618

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 19 and 20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Maggenti et al. in view of Yafuso et al. (US 5,912,882).

Consider claims 19 and 20, Maggenti et al. do not disclose wherein the display of all the participants includes the queue order and the queue order is displayed on the device capable of sending and receiving messages over the telecommunications system (as in claims 19 and 20). Yafuso et al. disclose wherein the second server is programmed to send the queue order and the queue order is displayed on the device capable of sending and receiving messages over the telecommunications system (Column 7 lines 30-48, reads on claims 19 and 20) Therefore it would have been obvious to one of ordinary skill in the art at the time of the invention to modify the method of Maggenti et al. to program the second server to receive a request for a display of the queue order and to display the queue order on the device capable of sending and receiving messages over the telecommunications system as taught by Yafuso et al. in order to allow the participants to view the queuing order on their respective devices, learn their place in the queuing order and alter their priority within pre-described limits under urgent circumstances (as suggested by Yafuso in column 6 lines 28-67 and column 7 lines 1-12, and by Maggenti et al. in paragraph E0191).


### **Conclusion**

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Tu Nguyen whose telephone number is 571-272-7883.

Art Unit: 2618

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Edward Urban, can be reached at (571) 272-7899. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



January 9, 2007